

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- X
HAPAG-LLOYD AKTIENGESELLSCHAFT,

Plaintiff,

- against -

U.S. OIL TRADING L.L.C.,
O.W. BUNKER GERMANY GMBH,
O.W. BUNKER & TRADING A/S,
O.W. BUNKER USA, INC.,
ING BANK N.V., and
CREDIT AGRICOLE CIB,

Defendants.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: 2/4/2016

14 Civ. 9949 (VEC)

**NOTICE OF ENTRY OF ORDER
CONFIRMING DEBTORS'
FIRST MODIFIED
LIQUIDATION PLANS,
NOTICE OF DISCLAIMER
OF INTEREST, AND
REQUEST FOR DISMISSAL**

PLEASE TAKE NOTICE THAT Interpleader Defendant O.W. Bunker USA Inc. (“OWB USA” and, collectively with O.W. Bunker Holding North America Inc. and O.W. Bunker North America Inc., “Debtors”), by and through the O.W. Bunker USA Inc. Liquidating Trust (“OWB USA Trust” and, collectively with the O.W. Bunker North America Inc. Liquidating Trust, “Liquidating Trusts”) and its undersigned counsel, hereby disclaims all interest in any claims relating to the above-captioned case and respectfully requests to be dismissed. In support thereof, OWB USA sets forth as follows:

**NOTICE OF ENTRY OF ORDER CONFIRMING
DEBTORS' FIRST MODIFIED LIQUIDATION PLANS**

1. On November 13, 2014, the Debtors each filed voluntary petitions pursuant to Chapter 11 of the United States Bankruptcy Code in the United States Bankruptcy Court for the District of Connecticut (“Bankruptcy Court”). *In re O.W. Bunker Holding North America Inc.*, Case No. 14-51720 (JAM).

2. On November 19, 2015, the Debtors filed their First Modified Liquidation Plans (“Plan”) with the Bankruptcy Court. *In re O.W. Bunker Holding North America Inc.*, Case No. 14-51720, Docket No. 1171.

3. The Plan provides for the dissolution of OWB Holding, the formation of the Liquidating Trusts, and the transfer of OWB NA’s and OWB USA’s assets including litigation claims to their respective Liquidation Trusts. *See* Plan Art. VI and VII.

4. The Plan also specifically provides:

Intermediary Supplier Transactions. In any pending or future litigation under the Maritime Lien Act, the maritime law of the U.S. or foreign jurisdiction, or other applicable law in which a Debtor is an Intermediary Supplier, upon the Effective Date of the Plan: (a) the Liquidating Trust shall abandon all interest in any Claim the Liquidating Trust may have against an end-customer and/or its vessel arising from a Debtor’s role as an Intermediary Supplier; and (b) the automatic stay and the injunction provisions contained in the Plan shall remain in place and shall be effective.

See Plan Art. V(9).

5. Furthermore, the Plan specifically provides that the Liquidating Trusts “shall not assert . . . any rights” arising from bunker supply transactions where the Debtors “acted as the Physical Supplier or an Intermediary Supplier.” *See* Plan Art. V(5)(d)-(e).

6. On December 15, 2015, the Bankruptcy Court entered an order confirming the Plan (“Confirmation Order”). *In re O.W. Bunker Holding North America Inc.*, Case No. 14-51720, Docket No. 1279.

7. On January 4, 2016, The Debtors’ filed a notice with the Bankruptcy Court announcing that the Plan’s Effective Date occurred on January 4, 2016. *In re O.W. Bunker Holding North America Inc.*, Case No. 14-51720, Docket No. 1334.

NOTICE OF DISCLAIMER OF INTEREST

8. The Debtors previously advised this honorable Court and all parties to the above-captioned case that the Debtors intended to disclaim and abandon all interest in any claims arising from bunker supply transactions where the Debtors were only “Intermediary Supplier” and/or “Physical Supplier.”

9. Now, as required by the Plan and the Bankruptcy Court’s Confirmation Order:

a. O.W. BUNKER USA INC., by and through the Liquidating Trustee of the O.W. Bunker USA Inc. Liquidating Trust, hereby disclaims and abandons all interest in any claims arising from the bunker supply transactions at issue in the above-captioned case and to the interpleaded property that is subject of the above-captioned case including *in rem* claims against the SEASPAN HAMBURG, SOFIA EXPRESS, VIENNA EXPRESS, and SANTA ROBERTA and *in personam* claims against the Interpleader Plaintiff.

10. For the avoidance of doubt, the Debtors’ Notice of Disclaimer of Interest is without prejudice to and is not intended to affect ING Bank N.V.’s asserted rights as Security Agent under that certain English Omnibus Security Agreement and that certain USD 700,000,000 Multicurrency Revolving Borrowing Base Facilities Agreement, each dated December 19, 2013, by and between ING Bank N.V. and O.W. Bunker & Trading A/S and certain of its affiliates.

REQUEST FOR DISMISSAL

11. Pursuant to the Plan and the Bankruptcy Court's Confirmation Order, and based on the foregoing Notice of Disclaimer of Interest, OWB USA respectfully requests that it is dismissed as a party from the above-captioned case.

New York, New York
January 22, 2016

/s/ Robert E. O'Connor

Robert E. O'Connor
Vincent M. DeOrchis
Davis Lee Wright
Kaspar Kielland
MONTGOMERY MCCRACKEN
WALKER & RHOADS LLP
437 Madison Avenue
New York, NY 10022
Telephone: (212) 867-9500
Fax: (212) 599-1759
Email: vdeorchis@mmwr.com
dwright@mmwr.com
kkielland@mmwr.com
roconnor@mmwr.com

*Attorneys for Defendant
O.W. Bunker USA Inc.*

*Attorneys for
O.W. Bunker Holding North America Inc.
O.W. Bunker North America Inc.
O.W. Bunker North America Inc. Liquidating Trust
O.W. Bunker USA Inc. Liquidating Trust*

Application GRANTED. OWB USA is hereby dismissed from the above-captioned case. For the avoidance of doubt, any claims that OWB USA asserted or could have asserted with respect to the bunker transactions at issue (including any claims against the vessels or against Plaintiff) are dismissed with prejudice.

SO ORDERED.



HON. VALERIE CAPRONI
UNITED STATES DISTRICT JUDGE

Date: 2/4/2016